

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois	:	
	:	
Petition for a Certificate of Public Convenience	:	
and Necessity, pursuant to Section 8-406.1 of	:	
the Illinois Public Utilities Act, and an Order	:	
pursuant to Section 8-503 of the Public Utilities	:	No. 12-0598
Act, to Construct, Operate and Maintain a New	:	
High Voltage Electric Service Line and Related	:	
Facilities in the Counties of Adams, Brown, Cass,	:	
Champaign, Christian, Clark, Coles, Edgar,	:	
Fulton, Macon, Montgomery, Morgan, Moultrie,	:	
Pike, Sangamon, Schuyler, Scott, and Shelby,	:	
Illinois.	:	

**REPLY BRIEF OF MOULTRIE COUNTY PROPERTY OWNERS**

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# **REPLY BRIEF OF MOULTRIE COUNTY PROPERTY OWNERS**

## **I.**

### **INTRODUCTION**

The Moultrie County Property Owners (“MCPO”) present this Reply Brief in response to certain issues raised and arguments made by the Piatt, Douglas, Moultrie County Property Owners (“PDMO”) in their Initial Brief (“PDMO Brief”). MCPO also briefly addresses an issue raised by the Staff of the Illinois Commerce Commission (“Staff”) in their Initial Brief (“Staff Brief”). MCPO also briefly discusses certain portions of the Ameren Transmission Company (“ATXI”) Initial Brief (“ATXI Brief”). MCPO’s failure to respond to any particular argument of any particular party should not be considered acceptance of, or agreement with that argument, unless specifically stated otherwise herein. MCPO’s failure to revisit any issue raised in its Initial Brief should not be considered an abandonment of that issue.

## **IV. LEAST COST AND THE PROPOSED TRANSMISSION LINE ROUTES**

### **F. Pana to Kansas**

#### **1. Need for Mt. Zion Substation**

Staff concludes because ATXI has committed to connect to the Ameren Illinois Company (“AIC”) system, the Mt. Zion Substation is needed. ATXI and MCPO have resolved their disagreement on the need for the Substation by stipulation. No other party appears to have addressed this issue in their Brief.

## **2. Location of Mt. Zion Substation**

ATXI and MCPO have stipulated to ATXI's proposed location for the Mt. Zion Substation. MCPO notes that Staff raised concerns with ATXI's proposed location for the Mt. Zion Substation. (Staff Br. at 24). However, MCPO believes ATXI reasonably explained, in its Initial Brief, why Staff's alternative location for the Mt. Zion Substation is not practical. (ATXI Br. at 59-60). MCPO agrees with ATXI.

Post event voltage drops in the Decatur area are driven by reactive power needs and reactive power cannot be practically transmitted very far from its source. (*See*, Dauphinais, MCPO Ex. 1.0 at 55:1204-1206). It appears that the Substation location considered by the Staff (*see*, Staff Br. at 24) is about 30 miles further to the south than the ATXI location. (Kramer, ATXI Ex. 11.0 (Rev) at 7:157-159). This increases the distance the reactive power must be transmitted and, therefore, impacts the practicality of doing so.

## **3. Route Location**

MCPO continues to support the ATXI-MCPO Stipulated Route for the Pana to Kansas portion of the IRP agreed to by ATXI and MCPO, which consists of ATXI's Primary Route Segment from Pana to Mt. Zion, and MCPO's Proposed Route from Mt. Zion to Kansas ("Route Segment MCPO MZK") (collectively, "Route MCPO-P-MZK" or the "Stipulated Route"). This Stipulated Route is not only supported by MCPO and ATXI, but also by the Stop the Power Lines Coalition, JDL Broadcasting, Inc., Tarble Limestone Enterprises, Coles County Landowners, Reed Interests, and Coles and Moultrie County Land Interests, as well as the Shelby County Landowners Group. (*See*, Brief of Stop the Power Lines Coalition, et al., at 1-2; *See* Brief of Shelby County Landowners

Group at 4). However, as discussed in Section IV.F.3.b., below, PDMO opposes Route Segment MCPO MZK, which is part of the Stipulated Route.

**a. Pana to Kansas (if Mt. Zion Substation Deemed Unnecessary)**

ATXI and MCPO have stipulated on the need for the Mt. Zion Substation and Staff has indicated it believes that because ATXI has committed to interconnection with the Ameren Illinois System, the Substation is needed. Under the circumstances and given its support for the Stipulated Route, MCPO does not need to address this issue.

**b. Pana to Mt. Zion**

MCPO notes that Staff finds ATXI's Primary Route from Pana to Mt. Zion to be the preferable route. (Staff Br. at 28). For reasons stated in its Initial Brief (MCPO Br. at 17-24), MCPO supports ATXI's Primary Route from Pana to Mt. Zion as part of the Stipulated Route. As demonstrated in the MCPO Brief, the ATXI-MCPO Stipulated Route has been shown to be the best alternative of all the possible route combinations from Pana to Mt. Zion to Kansas. No party has reasonably demonstrated otherwise in their Initial Brief. (MCPO Br. at 9-18, 24-27))

**c. Mt. Zion to Kansas**

PDMO urges rejection of Route Segment MCPO MZK and adoption of ATXI's Alternate Route from Mt. Zion to Kansas. (PDMO Br. at 1). As noted above, Route segment MCPO MZK is a component of the ATXI-MCPO Stipulated Route between Pana and Kansas in conjunction with ATXI's Primary Route Segment from Pana to Mt. Zion. PDMO supports the ATXI Alternate (Rebuttal Recommended Rebuttal) Route segment from Mt. Zion to Kansas. PDMO suggests,

incorrectly, that Route Segment MCPO MZK is an inferior route because of its length and cost. (PDMO Br. at 2).

**i. Length of the Line**

Route Segment MCPO MZK is only 2.8 miles longer than ATXI's Alternate Route segment from Mt. Zion to Kansas.<sup>1</sup> (69.2 miles versus 66.4 miles). (*See*, Dauphinais, MCPO Ex. 1.4 at 1; Reinecke, MCPO Ex. 2.3 at 1; and Murphy, ATXI Ex. 4.5 at 1). The eight miles of "detours" that PDMO focuses on in its Brief have no significant impact on the length of the Stipulated Route in general or Route Segment MCPO MZK in particular. (*See* PDMO Br. at 3, discussing detours "four miles north" and "four miles back south"). Also, all else equal, the length of the line is certainly an important consideration, because of the potential for increased costs and environmental impact. However, in this case all else is not equal, as the record shows that Route Segment MCPO MZK has a lower cost than the ATXI Primary or Alternate Route segment from Mt. Zion to Kansas and, in addition, has substantially less environmental impact. Route Segment MCPO MZK affects fewer residences, and fewer non-residential structures and fewer acres of prime farmland. (*See*, MCPO Ex. 2.3; *see also*, MCPO Ex. 1.7, comparing Route ATXI-P-A to Route MCPO-P-MZK; ATXI, Ex. 4.5). Under such circumstances, the slightly greater length of Route Segment MCPO MZK is not a critical factor in the routing determination.

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<sup>1</sup> Route Segment MCPO MZK is also 0.9 miles longer than ATXI's Primary Route segment from Mt. Zion to Kansas (69.2 miles versus 68.3 miles). (PDMO Ex. 1.4 at 1; ATXI Ex. 3.4 (3rd Rev)).

Instead of focusing on the merits of Route Segment MCPO MZK, despite its 2.8 mile additional length, PDMO chooses to speculate and complain about MCPO's motivations to propose Route Segment MCPO MZK. (*See*, PDMO Br. at 3, 13-14). In all due respect to PDMO, the motivation of MCPO is no different than the motivation of every other individual property owner or group of property owners in this case, including PDMO itself. If the Commission were to accept PDMO's arguments, which are essentially that MCPO proposals are somehow biased and unacceptable because of MCPO's alleged motivations, then the analysis and evidence presented by PDMO and every other property owner or group of property owners, in this case, would arguably, be without merit. The Commission should evaluate the merits of the various routing proposals based on the facts and the preferability of each proposal, in comparison to the other available routes, not on speculative arguments about the motivation of the parties.

In this instance, MCPO knew very well it needed to propose a significantly better route as an alternative to ATXI's Primary and Alternate Routes from Mt. Zion to Kansas. MCPO believes that it has done so with Route Segment MCPO MZK.

PDMO also places great emphasis on the fact that the ATXI-MCPO Stipulation (Borkowski, ATXI Ex. 10.2 (Rev) Pt. 2, Stip. Ex. 7) misstates the length of the Stipulated Route describing it as the "shortest route". However, as explained above, and in MCPO's Initial Brief, Route Segment MCPO MZK (and be extension the Stipulated Route), is about 2.8 miles longer than the shortest ATXI route from Mt. Zion to Kansas (the ATXI Alternate Route). (MCPO Br. at 27). However, Route Segment MCPO MZK is a lower cost route than either ATXI's Primary or Alternate Route segment from Mt. Zion to Kansas. (ATXI Ex. 16.3 (Rev) at 7).



PDMO suggests that MCPO's "detours" were done for "no reason other than to achieve 'geographical diversity'". (PDMO Br. at 3). PDMO says this is a "euphemism" for "someplace other than Moultrie County." (*Id.*). PDMO argues that MCPO witness Mr. Dauphinais was instructed to look "beyond Moultrie County". (PDMO Br. at 3, citing to Tr. 558). However, PDMO overlooks Mr. Dauphinais' testimony that there was a need to examine routes beyond Moultrie County because the routes ATXI examined, including the possible options that might be available in Moultrie County, already pretty much filled Moultrie County from just north of Lake Shelbyville to the northern boundary of Moultrie County. (Dauphinais, Tr. 558). A review of ATXI Exhibit 4.6 showing that ATXI examined possible route options throughout Moultrie County north of Lake Shelbyville, but it did not consider any route options north of Moultrie County. (Murphy, ATXI Ex. 4.6, Pt. 8 of 10). Essentially, ATXI stopped looking for route options at the northern border of Moultrie County. It is only natural that in order to expand the geographical diversity of ATXI's analysis, it was necessary to look beyond the northern boundary of Moultrie County.

Furthermore, as stated previously, Route Segment MCPO MZK does provide geographical diversity in that it provides superior routing factor performance, as evidenced by its much lower impact to residences and other structures and its lower impact on prime farmland as well as its lower impact on wooded areas as compared to ATXI's Alternate Route segment from Mt. Zion to Kansas. Route Segment MCPO MZK does this despite being 2.8 miles longer than ATXI's Alternate Route segment. (Reinecke, MCPO Ex. 2.3 at 2-4; Murphy, ATXI Ex. 4.5 at 2-4).

PDMO has also taken liberties with its characterization of the rebuttal testimony of ATXI witness Mr. Kramer. (*See*, PDMO Br. at 3). A review of the testimony cited by PDMO clearly

reveals that Mr. Kramer was speaking with regard to Mr. Dauphinais' analysis of the need for the Mt. Zion substation, not route segment Route Segment MCPO MZK. (*See*, Kramer, ATXI Ex. 11.0 (Rev) at 12:256-269).

In summary, while Route Segment MCPO MZK is admittedly slightly longer than ATXI's Alternate Route segment from Mt. Zion to Kansas, the environmental impacts, such as number of impacted residences, number of overall structures impacted, amount of woodlands affected and primary farmland affected, are substantially less than ATXI's Alternate Route segment from Mt. Zion to Kansas, justifying the adoption of MCPO's route segment over ATXI's Alternate Route segment in this instance.

## **ii. Difficulty and Cost of Construction**

### *Route Segment MCPO MZK is Less Expensive*

PDMO suggests that ATXI's Alternate Route from Mt. Zion to Kansas is less expensive than Route Segment MCPO MZK. (PDMO Br. at 4). PDMO is wrong. First, PDMO makes an apples to oranges comparison of certain cost estimates made by MCPO witness Dauphinais to cost estimates made by ATXI witness Murbarger. PDMO compares a Mean cost estimate of \$150.6 million from MCPO Ex. 4.1 to the baseline cost estimate of \$129.1 million in ATXI Ex. 16.1.

Mr. Dauphinais provided a range of cost estimates for the Route Segment MCPO MZK in his MCPO Exhibit 1.4. (Dauphinais, MCPO Ex. 1.4). Mr. Dauphinais' estimates were similar in form and content to the estimates made by ATXI witness Mr. Hackman and presented in ATXI's 3rd Revised Exhibit 3.4. (Compare MCPO Ex. 1.4 to ATXI Ex. 3.4 (3rd Rev.); *see*, Dauphinais, MCPO Ex. 1.0 at 18:370, indicating he used ATXI Ex. 3.4 to develop his analysis).

PDMO makes an apples to oranges comparison of the cost estimates contained in MCPO Exhibit 1.4 to the estimates contained in ATXI Exhibit 16.1. First, as noted above, MCPO Exhibit 1.4 is similar in form and content to ATXI's Exhibit 3.4 (3rd Rev) and a comparison of the cost estimates in these two exhibits clearly demonstrates that Route Segment MCPO MZK is the lower cost alternative in each and every instance (Base, Low, Mean, and High). <sup>2</sup>

MCPO Exhibit 1.4 (Route Segment MCPO MZK)	ATXI Exhibit 3.4 (3rd Revised) (ATXI Alternate Route)
Base \$129,107,371.00	Base \$129,823,232
Low \$134,347,767	Low \$135,092,684
Mean \$150,582,483	Mean \$151,417,416
High \$171,270,357	High \$172,219,998

Another proper comparison is between the baseline cost for ATXI's Primary and Alternate Route segments from Mt. Zion to Kansas in comparison to the ATXI cost estimate for Route Segment MCPO MZK (which is part of the ATXI-MCPO Stipulated Route) contained in ATXI's Exhibit 16.3 (Rev). This is an apples to apples comparison. It demonstrates that Route Segment MCPO MZK is the lower cost route option as well. (\$126,511,000 for MCPO's Route Segment

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<sup>2</sup> It is also true that Route Route Segment MCPO MZK had a lower cost in each and every instance than ATXI's Primary Route from Mt. Zion to Kansas.

MCPO MZK versus \$128,026,000 for ATXI's Alternate Route segment). (Murbarger, ATXI Ex. 16.3 (Rev) at 7). Route Segment MCPO MZK is the lower cost route in this analysis as well.

The Commission should keep in mind that the Staff asked ATXI to calculate a baseline cost for certain intervenor route proposals, including Route Segment MCPO MZK, in the same manner as the base line cost estimates contained in ATXI Exhibit 7.4. (See, Rockrohr, Staff Ex. 1.0R at 43:906-911). ATXI witness Murbarger presented these estimates in the form requested by Staff in his rebuttal testimony. (Murbarger, ATXI Ex. 16.0(Rev) at 5-7:94-131, presenting ATXI Exhibit 16.3 (Rev)).<sup>3</sup> The ATXI cost estimates requested by the Staff and presented by Mr. Murbarger clearly show that under the Staff approach, Route Segment MCPO MZK is the lower cost route in comparison to ATXI's Alternate (or Primary) Route segments from Mt. Zion to Kansas. Indeed, the Illinois Commerce Commission Staff has agreed that Route Segment MCPO MZK is the least costly alternative in comparison to ATXI Alternate (or Primary) Route segments from Mt. Zion to Kansas. (Staff Br. at 32).

Thus, under any apples to apples comparison of cost estimates presented for Route Segment MCPO MZK and ATXI Alternate (or Primary) Routes from Mt. Zion to Kansas, the MCPO Route is less costly.

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<sup>3</sup> In footnote 2 at page 5 of PDMO's Brief, it claims Mr. Murbarger's estimates for interveners routes were different than his base cost estimates for ATXI routes. However, a careful reading of the transcript of Mr. Murbarger's testimony discloses that his testimony on the calculation of routes based on mileage was given in relation to one of the Stop the Power Line Coalition Alternate Route, not intervenor routes generally. Mr. Murbarger's testimony on this issue does not aid PDMO. (See, Murbarger, Tr. 368 at lines 7-16, discussing estimated base line cost of Stop the Power Lines Coalition Route based on Mileage).

### *MCPO's Route Has Fewer Turns*

Next, PDMO suggests that ATXI's Alternate (or Rebuttal Recommended ) Route segment from Mt. Zion to Kansas has fewer "turns" than Route Segment MCPO MZK and, therefore, requires the installation of more "dead end structures" than ATXI's Alternate Route segment. (*See*, PDMO Br. at 5, citing the testimony of Staff witness Rockrohr). Again, PDMO misapprehends or misunderstands the facts of the situation.

First, the testimony of Staff witness Rockrohr, upon which PDMO's argument rests, was addressing the version of MCPO's Alternate Routes filed on December 31, 2012, not the refined version of the routes presented in MCPO's direct testimony. (*See*, Rockrohr, Staff Ex. 1.0R at 41:865-869, referring to Exhibits A and B of the December 31, 2012 version of MCPO's Routes).

Second, as Mr. Dauphinais carefully explained during his cross-examination, ATXI actually has three classes of structures: (i) tangent or straight line towers, (ii) one degree of turning to 15 degree of turning structures, and (iii) 15 degree to 90 degree "more severe" turning structures. (Dauphinais, Tr. 573-574). Each of these types of structures have different costs. (*See*, Rockrohr, Staff Ex. 1.0R at 20-21:446-453). Mr. Dauphinais indicated Route Segment MCPO MZK would have a total of 429 structures: (i) 399 tangent structures, (ii) one of the 1 to 15 degree turning structures and (iii) 29 of the 15 to 90 degree turning structures (Dauphinais, Tr. 574.). He also testified during cross-examination, with a citation to ATXI's response to Data Request MCPO-ATXI 3.08 (Rockrohr, Staff Ex. 1.0R, Attach H) as his source, the ATXI's Rebuttal Recommended Route (aka Alternate Route segment) from Mt. Zion to Kansas would have 435 structures: (i) 372 tangent structures, (ii) 11 of the 1 to 15 degree turning structures and (iii) 52 of the 15 to 90 degree structures

(Dauphinais, Tr. 575). These structures have an estimated cost of \$33,000, \$74,250 and \$107,250 respectively per structure. (Rockrohr, Staff Ex. 1.0R at 20-21:446-453). Clearly, ATXI's Rebuttal Recommended Route (aka Alternate Route) segment from Mt. Zion to Kansas requires significantly more 15 to 90 degree turning structures (at \$107,250 per structure) than Route Segment MCPO MZK, not fewer.

PDMO also claims Ms. Murphy demonstrated ATXI's Rebuttal Recommended Route has fewer turns than Route Segment Route Segment MCPO MZK. She counted only 24 turns. However, she only provided a count for right-angle (i.e., 90 degree) structures that would be used by ATXI's Rebuttal Recommended Route (aka Alternate Route) segment. (Murphy, Tr. 773). She did not provide a count for the number of other structures that fall between 15 degree and 90 degrees for ATXI's Alternate Route segment. Mr. Dauphinais' aforementioned count of 29 for Route Segment Route Segment MCPO MZK was for all turning structures between 15 degrees and 90 degrees (Dauphinais, Tr. at 573-574). PDMO claims all 29 of these turns are plainly visible on MCPO Corrected Exhibit 2.2. However, again, the 29 turns in question are for 15 degree to 90 degree turning structures, not just right-angle (i.e., 90 degree) turning structures. A careful examination of MCPO Corrected Exhibit 2.2 shows that only 24 of those 29 structures on Route Segment Route Segment MCPO MZK are right-angle (i.e., 90 degree) turning structures (MCPO Ex. 2.2C at 1 of 20).

However, the relevant consideration is not the number of right angle turns or 90 degree turning structures are on the route, but the total number of 15 to 90 degree structures, since the estimated cost per structure is the same (\$107,720). In that regard, Route Segment MCPO MZK has

only 29 such structures and PDMO's preferred ATXI Alternate Route has 52. (Dauphinais, Tr. 575; Rockrohr, Staff Ex. 1.0R, Att. H).

*ATXI Alternate Route is Not the Better Route*

PDMO argues that the ATXI Alternate Route is better than Route Segment MCPO MZK. (PDMO Br. at 5-7). Specifically, PDMO argues that the testimony of ATXI witness Donnell Murphy establishes that the Alternate Route is the better route and that ATXI now asks the Commission to adopt a route that its witness has testified is "not viable". (PDMO notes that ATXI has now stipulated that Route Segment MCPO MZK is a viable route. (*Id.*).

PCMO's argument is not supported by the record. There is ample evidence in the record to conclude that Route Segment MCPO MZK is a better route than ATXI's Alternate Route segment from Mt. Zion to Kansas. MCPO has discussed that evidence and explained why Route Segment MCPO MZK is the better route earlier in this brief and will explain further below. It is again worth noting that Route Segment MCPO MZK performs better with regard to the Phase I and Phase II high sensitivity factors identified in ATXI's public process than either ATXI's Alternate or Primary Route segment from Mt. Zion to Kansas. Specifically, Route Segment MCPO MZK performs significantly better with regard to the impact on residences (as well as other structures). It performs better with regard to impact on woodlands and prime farmland. (MCPO Ex. 2.3 at 2-3; ATXI Ex. 4.5 at 2-3). Furthermore, it is less costly. For these reasons MCPO and ATXI have stipulated to Route Segment MCPO MZK as part of the Stipulated Route they recommend the Commission adopt for the portion of the IRP between Pana and Kansas, assuming the need for the Mt. Zion Substation.

Second, PDMO implies that it is somehow inappropriate or extraordinary for a utility to stipulate to the position of another party in the context of a contested proceeding before the Illinois Commerce Commission. In this case, according to PDMO, ATXI presented testimony suggesting that Route Segment MCPO MZK was not a viable route and has now stipulated to the contrary. (*See*, PDMO Br. at 5-6, generally). However, as the Commission is aware, it is not unusual or extraordinary for the utility to stipulate to the position of another party in the case that is contrary to the position the utility has taken in its evidence. *See, for example*, Commonwealth Edison Company, Dkt. 07-0566, Order, September 10, 2008 at 26-30; Northern Illinois Water Corporation, Dkt. 97-0254, 1998 Ill. PUC LEXIS 155, March 11, 1998 at [14]-[15]; Northern Illinois Water Corporation, Dkt. 95-0220, 1995 Ill. PUC LEXIS 822, December 6, 1995 at [13]-[15]; Northern Illinois Water Corporation Proposed general increase in water rates, 91-0175, Illinois Commerce Commission, 1991 Ill. PUC LEXIS 591, October 17, 1991 at [14]-[15], where the utility stipulated to the position of the Staff on certain revenue requirement issues that were contrary to the position taken by the utility in its testimony.)

Furthermore, the important consideration here is whether or not there is sufficient evidence in the record to support the conclusion that Route Segment MCPO MZK is the better route. Clearly, there is substantial evidence in the record to support that conclusion. Therefore, the Stipulation of ATXI and MCPO is, in fact, supported by evidence in the record.

In addition, in its argument, PDMO focuses on the definition of “viable” in reporting that ATXI witness Murphy did not consider Route Segment MCPO MZK to be viable. PDMO uses a Webster’s New College Dictionary definition for “viable”, which defines “viable” to mean “capable



of working, functioning”. PDMO goes on to say that “not viable” therefore means “incapable of working or functioning”. The capacity of “working and functioning” based on this definition seems to relate to the ability for the proposed transmission line to operate and convey electricity. There is absolutely no evidence in the record that suggests that a transmission line built on the route proposed by MCPO would be “incapable” of working or functioning. First, MCPO witness Dauphinais has testified that MCPO’s Route MCPO-P-MZK, (the ATXI-MCPO Stipulated Route), that includes Route Segment MCPO MZK has the same electrical configuration as all of ATXI’s route combinations from Pana to Kansas. (Dauphinais, MCPO Ex. 1.0 at 9:162-163). Second, no ATXI witness has suggested otherwise. Third, ATXI witnesses have testified MCPO Route Segment MCPO MZK is constructable. (Hackman, Tr. 1020-1022).

Furthermore, PDMO’s definition of “viability” is inconsistent with the definition traditionally used by the Commission in determining transmission line routes. Traditionally, the Commission has considered the “impacts” associated with various routes in determining a route’s viability. (*See, (See, Illinois Power Company, d/b/a IP, et al., Dkt. 06-0706, Order, June 23, 2010 at 6-34)*). For example, in this particular instance, the Commission is considering such things as the number of impacts on residences as well as other routing factors. (*See, Agreed Outline generally*). In that regard, ATXI witness Murphy was only able to identify the potential to interfere with aviation activities at the Tuscola Airport as a matter of concern with regard to Route Segment MCPO MZK. (*See, Murphy, ATXI Ex. 13.0C (2nd Rev) at 54:1151-1154*). However, Ms. Murphy did not explain how or why this was a matter of concern, instead relying on testimony of PDMO witness Hruspa (*Id.*). Mr. Hruspa’s testimony was addressed in detail in MCPO’s Initial Brief. (*See, MCPO Br. at*

30-33). In sum, Route Segment MCPO MZK and the construction of a transmission line on same, will not interfere with activities at the Tuscola Airport. In fact, Route Segment MCPO MZK, like ATXI's Alternate Route from Mt. Zion to Kansas, has no airports within the 500 foot corridor. (MCPO Ex. 2.3 at 2; ATXI Ex. 4.5 at 2).

It is also important that Ms. Murphy has not questioned or debated that MCPO's evidence demonstrates that Route Segment MCPO MZK outperformed ATXI's Alternative Route in relation to residences, other structures, schools, developed lands, open water, pasture/hay, prime farmland, woodlands, known State listed species occurrences, Illinois Natural Areas Inventory and oil wells. (MCPO Ex. 2.3 at 1-4; ATXI Ex. 4.5 at 1-4).

#### *ATXI-MCPO Stipulation*

Next, in this section of its Brief, PDMO argues that ATXI and MCPO's Stipulation does not serve the public interest. PDMO's argument appears to be based on a fundamental misunderstanding of law and the evidence in this case. It reasons that the Commission cannot find Route Segment MCPO MZK is supported by substantial evidence because "all ATXI's substantial evidence supports ATXI's Alternate Route . . .". (PDMO Br. at 8).

First, while PDMO is correct that the Commission's decision on routing must be supported by substantial evidence, it is absolutely incorrect to suggest that simply because one party to the proceeding has presented evidence suggesting that Route Segment MCPO MZK is not the best, the Commission cannot, based on other substantial evidence in the record, presented by other parties, conclude that it is, in fact, the best route. The Illinois Public Utilities Act requires that the Commission's decision be based on the record evidence which includes all testimony filed in this

case. (220 ILCS 5/10-103). It does not mandate that it be based only on the evidence presented by the utility. If that were the case, there would be absolutely no need for any other interested party to present evidence of any kind in proceedings before the Commission. Under PDMO's approach, the Commission could not rely on that evidence in making its decision if it was contradictory to the utility's evidence.

Second, the law in Illinois is that substantial evidence includes all the evidence in the record regardless of the party who presented same. (*See*, 220 ILCS 5/10-201(e), indicating the Commission's determinations must be "supported by substantial evidence based on the entire record of evidence. . . ." (emphasis added)). MCPO agrees that the Commission cannot base its decision in this case exclusively on the ATXI-MCPO Stipulation. The proposals made in that Stipulation, including the adoption of Route Segment MCPO MZK as part of the Stipulated Route, must be supported by substantial evidence in the record and not just the Stipulation of the parties. MCPO has spent a significant amount of time describing in this Brief and in its Initial Brief, the substantial evidence that supports the adoption of Route Segment MCPO MZK on its merits. It will not describe again all of that evidence. Suffice it to say it is substantial and includes the testimony and exhibits prepared and offered by MCPO's three highly qualified experts and an MCPO land owner. To say that because ATXI has presented evidence suggesting that MCPO's route was not viable, the Commission cannot conclude otherwise based on other substantial evidence in the record, is incorrect.

Furthermore, contrary to PDMO's representation, not all ATXI evidence disputes the viability of MCPO's Route. For example, ATXI witness Hackman, the second in command for this

project, testified that Route Segment MCPO MZK was constructable and justified paralleling of existing transmission lines in part because of its significantly reduced societal and environmental impacts. (Hackman, Tr. 1020-1022). Furthermore, ATXI witness Murbarger's cost estimates demonstrate that MCPO's Route segment MCPO MZK is less costly. (Murbarger, ATXI Ex. 16.3 (Rev) at 7). Thus, there is evidence from ATXI which supports the adoption of Route Segment MCPO MZK as part of the ATXI-MCPO Stipulated Route.

### **iii. Difficulty and Cost of Operation and Maintenance**

In this portion of its Brief, PDMO recites at length testimony offered by ATXI witness Hackman regarding the paralleling of existing transmission lines in general and its potential impact on operations and costs. PDMO argues that because Route Segment MCPO MZK parallels existing transmission lines as it approaches the Kansas Substation, ATXI's Alternate/Rebuttal Recommended Route, from Mt. Zion to Kansas is a better route than MCPO's. PDMO points to no specific evidence that Route Segment MCPO MZK will be any more difficult to operate and maintain than other portions of the ATXI IRP. It offers no specific dollar cost estimates on the cost of operation and maintenance. It ignores Mr. Hackman's testimony, discussed above, that Route Segment MCPO MZK is constructable and that paralleling is justified in this instance because of the significantly reduced environmental impacts associated with the route. (Hackman, Tr. 1020-1023). Mr. Hackman had suggested that in certain instances, paralleling can be justified because of societal and environmental benefit trade-offs. (*See*, Hackman, Tr. 975-976). Furthermore, PDMO ignores the evidence in the record that approximately 19% of the entire IRP Recommended Rebuttal Route parallels existing transmission lines. (Murphy, Tr. 930).

#### **iv. Environmental Impacts**

Again, PDMO misapprehends or misunderstands the evidence presented in this case. It states that “MCPO’s route was developed on an analysis of only six-eight routing criteria . . .”. (PDMO Br. at 9). This is simply incorrect. The Route Segment MCPO MZK was routed based on all 32 routing factors used by ATXI in Ms. Murphy’s ATXI Exhibit 4.5. (Reinecke, MCPO Ex. 2.0 at 13:284-287; MCPO Exs. 2.3 and 2.4; ATXI Ex. 4.5; *see also* Dauphinais, Ex. 1.0 at 43-44:956-963). It is, therefore, simply incorrect to suggest that MCPO developed its routes based on only six-eight routing criteria.

Next, PDMO identifies the environmental impacts associated with Route Segment MCPO MZK. These include: (a) cutting through a black walnut grove on one individual’s property; (b) cutting through a Native American site on that same individual’s property; (c) coming within three miles of an Amish community in Arthur, Illinois; and (d) requiring the clearing of forest areas in the flood plain of the Lake Forest River. (PDMO Br. at 9). PDMO fails to recognize that there will be site-specific impacts associated with any route selected, but the overall purpose in comparing one route to another is to determine which route has the overall better routing factors.

Route Segment MCPO MZK impacts 8.2 acres less of woodlands than ATXI’s Alternate Route from Mt. Zion to Kansas and 2.9 acres less in woody wetlands. (Compare Murphy, ATXI Ex. 4.5 at 1 and 3 and Reinecke, MCPO Ex. 2.3 at 1 and 3). The Native American site referenced by PDMO has been significantly altered through the apparent collection of artifacts by the owner of the site and its continued farming by the owner of the site, which has resulted in the degradation of the site. (Reinecke, MCPO Ex. 4.0 at 6:113-117). There is also evidence that the site in question would

not present any problem to construct a transmission line, since there are already a total of 54 architectural sites within the easement for the IRP as original proposed. (*Id.* at 6:119-124). ATXI's Alternate Route also traverses near Arthur, Illinois. (*See*, Murphy, ATXI Ex. 4.2 (Pt. 67) at 2). Furthermore, MCPO has presented evidence to the effect that ATXI's Primary and Alternate Route segments will pass within only a quarter of a mile of Amish farmsteads and cultural facilities within Moultrie County, not three miles. (Sanders, MCPO Ex. 6.0 at 2:16-23). Route Segment MCPO MZK is an improvement over ATXI's Primary and Alternate Route segments from Mt. Zion to Kansas in this regard.

**v. Impact on Historical Resources**

PDMO raises the same arguments here as it made in Subsection iv. of its Initial Brief. MCPO's response is contained in Subsection iv. above.

**vi. Social and Land Use Impacts**

In this Section of its Brief, PDMO argues that Route Segment MCPO MZK will interfere with the Tuscola Airport and indiscriminately cut through prime farm parcels. (PDMO Br. at 10-12). With regard to Tuscola Airport, PDMO correctly notes that ATXI witness Murphy testified that Route Segment MCPO MZK "may interfere" with aviation activities. (Murphy, ATXI Ex. 13.0C (2nd Rev) at 54:1151-1154). However, as previously noted, Mr. Murphy made no analysis or determinations on her own. Instead, she relied on the testimony of PDMO witness Hruspa. (Hruspa, PDMO Ex. 3). MCPO has demonstrated that Route Segment MCPO MZK will not "interfere" with the operations of the airport. (*See*, MCPO Br. at 30-33; Section IV.F.3.c.ii. above).

PDMO also references its cross-examination of MCPO witness Reinecke regarding the need to work around the Tuscola Airport. PDMO specifically references an e-mail from Mr. Reinecke to MCPO's attorney referencing the need to work around the Airport. (PDMO Cross Ex. 1). First, given the date on the e-mail, it is clear that the communication dealt with only a preliminary route alignments being considered by MCPO witness Reinecke. (The e-mail is dated December 19, 2012. MCPO filed its routes on December 31, 2012/January 2, 2013). Second, MCPO witness Reinecke subsequently determined, based on Illinois Department of Transportation Regulations (Title 92, Ch. 1 - Dept. Of Transportation, Subchapter b, Part 16, Sec. 16 of the Illinois Administrative Code), whether the transmission line built on Route Segment MCPO MZK would interfere with the airport. (Reinecke, MCPO Ex. 2.0 at 23-24:506-533). He concluded, based on that review, that the construction of a transmission line on Route Segment MCPO MZK would not violate those rules. (*Id.* at 24:525-532). In addition, MCPO presented the evidence of Mr. Fischer, a commercial pilot and flight instructor, who reviewed the location of the line in relation to the airport and concluded that it would not interfere with airport operations. (Fischer, MCPO Ex. 5.0 at 2-6:24-111). Therefore, there was no need to move the line further away from the airport, as suggested by PDMO.

With regard to its argument that Route Segment MCPO MZK indiscriminately cuts through prime farm parcels, PDMO compares the cultivated field impacts on Route Segment MCPO MZK and ATXI's Alternate Route segment from Mt. Zion to Kansas. (PDMO Br. at 11-12). PDMO happens to be correct in this instance, that there are more cultivated fields within the 500 foot corridor for Route Segment MCPO MZK than within the 500 foot corridor for ATXI's Alternate Route segment from Mt. Zion to Kansas. However, in considering the significance of this fact, the

Commission should keep in mind that this fact alone does not necessarily prove the impacts alleged by PDMO. In its evidence, ATXI witnesses summarize their discussion of impacts as follows:

A greater occurrence implied a greater potential for impact. However, the phrase 'potential for impact' does not necessarily imply that an impact will, in fact, occur, nor does the term 'impact' necessarily imply an adverse affect. (Murphy, ATXI Ex.4.3 (Pt. 1) at 12).

The "potential for impact" to cultivated fields is not fully reflected simply by looking at the acres of cultivated fields for each route. One must also account for the proposed single shaft steel poles that can be installed in association with the transmission line that reduces the area of ground disturbance at the base of each structure and thereby reduces the potential for compaction, crop damage or other adverse affects to farmland. (Murphy, ATXI Ex. 4.0 at 11-12:218-220).

PDMO also fails to consider that Route Segment MCPO MZK has less prime farmland located within the 500 foot corridor than ATXI's Alternate Route segment. There are 109.7 more acres of prime farmland located along ATXI's Alternate Route segment from Mt. Zion to Kansas. (Reinecke, MCPO Ex. 2.3 at 2; Murphy, ATXI Ex. 4.5 at 2). Additionally, PDMO did not consider that there are significantly more non-residential structures along ATXI's Alternate Route segment as compared to Route Segment MCPO MZK. There are 147 non-residential structures located within 500 feet of ATXI's Alternate Route segment, compared to only 38 non-residential structures along Route Segment MCPO MZK. (MCPO Ex. 2.3 at 4; ATXI Ex. 4.5 at 4).

PDMO also incorrectly suggests that ATXI cannot meet its obligations under a Mitigation Agreement with the Illinois Department of Agriculture requiring ATXI to minimize the placement of transmission line support poles on cropland. (PDMO Br. at 11-12, citing ATXI Ex. 5.2 at



3(1)(B)). First, it should be noted that this Agreement apparently applies to the standards and policies ATXI will implement as it constructs the 345 kV electric transmission line and serve to minimize negative agricultural impacts that may result due to line construction. (ATXI Ex. 5.2 at 1). The Agreement does not appear to directly affect the route selection process. Second, the specific language relied upon by PDMO does not specifically govern the length of any particular route segment, but rather simply specifies that support poles are to be spaced in a manner to minimize their placement on cropland. (ATXI Ex. 5.2 at 3(1)(B)). ATXI witnesses have testified that ATXI intends that all support poles will minimize impact on farmland and farm activities. Ms. Murphy testified that “. . . the proposed single shaft steel poles would reduce the area of ground disturbance, at the base of each structure, thereby reducing the potential for compaction, crop damage or other adverse affects to farmland.” (Murphy, ATXI Ex. 4.0 at 11-12:218-220).

PDMO also complains that because Route Segment MCPO MZK is located in Piatt County, it potentially impacts some of the region’s best farms and “prime farmland” was a “high sensitivity” factor in ATXI’s analysis. (PDMO Br. at 12). As noted elsewhere in this Brief, Route Segment MCPO MZK actually impacts 109.7 acres less prime farmland than does ATXI’s Alternate (or Primary) Route from Mt. Zion to Kansas. PDMO appears to argue that “prime farmland” in Piatt and Douglas Counties has a higher sensitivity than “prime farmland” in Moultrie County. There is no evidence in the record to support such a claim.

With regard to PDMO’s other complaints about impact on specific farming operations, MCPO witness Sanders explains that the property owners in Moultrie County have the same concerns. (Sanders, MCPO Ex. 6.0 at 2-3:24-34).

PDMO argues that Route Segment MCPO MZK will require the “taking” of an additional 132 acres within the 150 foot easement area for the transmission line. (PDMO Br. at 11). PDMO over-states its case. ATXI has presented testimony that the ATXI Primary Route for the entire IRP will result in only 1.55 acres of farmland being taken out of production. ( , ATXI Ex. 5.0 at 10:196-204). This is because no agricultural land will be permanently taken out of cultivation, other than the land within the foot print of the foundation for the transmission line structures. The vast majority of the easement will only have overhanging wires. (*Id.*). Construction of the single shaft transmission pole, without guy wires, and anchors, will help to reduce the amount of land removed from cultivation. (*Id.*). Therefore, PDMO grossly overstates its case by suggesting there will be a “taking” of an additional 132 acres.

PDMO also suggests that a large number of dead end turns are placed in the middle of farm parcels along Route Segment MCPO MZK. (PDMO Br. at 11). However, the exhibit relied upon by PDMO does not specifically illustrate parcel boundaries or field lines. Therefore, it is difficult to see how PDMO arrived at any of its conclusions in this regard. (*See*, MCPO Ex. 2.2C generally). Also, as demonstrated in Subsection ii. above, there are actually 23 fewer (29 versus 52) 15 to 90 degree turning structures on MCPO Route Segment MCPO MZK. (Dauphinais, Tr. 575; Rockrohr, Staff Ex. 1.0R, Att. H).

PDMO argues that a large number of “dead-end structures” are placed in the middle of “farm parcels”. (PDMO Br. at 11). However, it does not define either term and does not show that the exhibit upon which it relies (MCPO Ex. 2.2C) identified “farm parcels”. Without knowing how the term “farm parcels” is defined, and how PDMO believes such parcels are identified on the Exhibit,

it is difficult to respond. However, MCPO notes that a review of the Exhibit discloses that only 9 or 10 of the 16 turns identified by PDMO appear to be located in the middle of farm fields. Again, PDMO overstates its case.<sup>4</sup>

**vii. Number of Affected Landowners; Proximity to Homes and Structures**

PDMO conveniently ignores the undeniable fact that Route Segment MCPO MZK impacts 31 fewer residential structures within 500 feet than ATXI's Alternate Route from Mt. Zion to Kansas.<sup>5</sup> Also, Route Segment MCPO MZK affects 140 fewer structures of all types within 500 feet, 99 fewer structures of all types within 300 feet, and 41 fewer structures of all types within the 150 feet. (Compare MCPO Ex. 2.3 at 4 and ATXI Ex. 4.5 at 4).<sup>6</sup> Instead, PDMO chooses to focus on the fact that MCPO witness Reinecke did not calculate the exact number of parcels affected by Route Segment MCPO MZK. While this information would certainly be nice to have, it does not appear to be critical. This is because the Commission has made it clear that the routing impact on residential structures is a high priority in relation to construction of 345 kV lines. (*See, Illinois Power Company*

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<sup>4</sup> Whether there are 9 or 10 turns in fields depends on whether one counts the turn identified by PDMO on page 19 of MCPO's Ex. 2.2C because it actually follows an existing transmission line.

<sup>5</sup> This includes 16 fewer between 75 and 150 feet, 8 fewer between 150 and 300 feet and 7 fewer between 300 and 500 feet. (Compare MCPO Ex. 2.3 at 4 and ATXI Ex. 4.5 at 4). There are no residences on either route within 75 feet.

<sup>6</sup> Route Segment MCPO MZK impacts substantially fewer non-residential structures than either ATXI's Alternate or Primary Routes from Mt. Zion to Kansas. Route Segment MCPO MZK affects a total of 38 other structures within 500 feet, while ATXI's Alternate Route affects 147 other structures within 500 feet. ATXI Primary Route affects a total of 106 structures within 500 feet (*Id.*).

*d/b/a Ameren Illinois*, Dkt. 06-0179, Order, May 16, 2007 at 16-17). Indeed, the Commission has approved routes that were longer and more costly because the route impacted fewer residential structures. (*Id.*). In this case, Route Segment MCPO MZK is slightly longer, but it is less costly and impacts substantially fewer residences than either ATXI's Alternate or Primary Route segments from Mt. Zion to Kansas.

#### **viii. Proximity to Existing and Planned Development**

In this section of its Brief, PDMO implies that Route Segment MCPO MZK is inferior to ATXI's Alternate Route from Mt. Zion to Kansas simply because Mr. Reinecke did not remember or know the names of the towns north of U.S. Route 36 that Route Segment MCPO MZK by-passed. (*See*, PDMO Br. at 13). To the best of MCPO's knowledge, recollection of town names is not a routing factor used in assessing routes for proposed transmission lines.

Next, PDMO alleges that Route Segment MCPO MZK adversely affects the towns on U.S. Route 36. This argument is based on the concept that all of the towns are entirely or predominantly on the north side of U.S. Route 36. (PDMO Br. at 13). PDMO's arguments are without merit.

First, it should be noted that none of the affected towns have intervened in this case to object to Route Segment MCPO MZK.

Second, PDMO argues that because MCPO considered a route one mile south of U.S. Route 36, but did not propose same to the Commission, certain towns north of U.S. Route 36 were adversely affected. However, as indicated below, Route Segment MCPO MZK actually has less impact on development as measured by impact on developed land, residences and non-residential structures than ATXI's Alternate Route from Mt. Zion to Kansas.

PDMO overlooks or ignores the fact that MCPO developed its routes using a number of corridors “to avoid impacts on urban areas”. (Reinecke, MCPO Ex. 2.0 at 3:47). MCPO’s general avoidance of urban areas is also demonstrated by the fact that there is only a total of 64.1 acres of developed land (high intensity, low intensity and medium intensity) within the 500 foot study corridor for Route Segment MCPO MZK. (Reinecke, MCPO Ex. 2.3 at 1). Indeed, Route Segment MCPO MZK has 114.4 acres less developed land within the 500 foot study corridor than the ATXI Alternate Route from Mt. Zion to Kansas supported by PDMO. (Reinecke, MCPO Ex. 2.3 at 1; Murphy, ATXI Ex. 4.5 at 1). Also as demonstrated in Subsection vii above, the MCPO Route impacts substantially fewer residences and other structures.

Contrary to PDMO’s reasoning, the evidence clearly demonstrates that MCPO developed its routes with a concern for existing development. Obviously, location of the route north of U.S. Route 36 impacted less developed land than either of the route segments proposed by ATXI for Mt. Zion to Kansas and impacted substantially fewer residences and non-residential structures than the route supported by PDMO (i.e., ATXI’s Alternate Route segment from Mt. Zion to Kansas). It is hard to creditably argue in that circumstance that Route Segment MCPO MZK does not illustrate concern for existing development. (*See*, PDMO Br. at 14).

#### **ix. Community Acceptance**

In this section of its Brief, PDMO essentially argues that because MCPO did not engage in a public process, in the way ATXI did, or hold public meetings, Route Segment MCPO MZK does not reflect community acceptance. PDMO’s argument is without merit. First, MCPO notes that numerous interveners and intervener groups support the ATXI-MCPO Stipulated Route, which

includes Route Segment MCPO MZK. (*See*, Section IV.F.3 above). In addition, the ATXI-MCPO Stipulated Route is obviously supported by the 45 property owners in the MCPO Group. Furthermore, the ATXI-MCPO Stipulated Route is supported by ATXI. Thus, there is substantial community acceptance of the ATXI-MCPO Stipulated Route, including Route Segment MCPO MZK.

Second, MCPO notes that unlike ATXI, it had no obligation under Section 8-406.1 to conduct public hearings or a public process. (*See*, 220 ILCS 5/8-406.1). In any event, the property owners along intervenor routes were mailed notice of this proceeding by the Commission. (Murphy, Tr. 767).

Third, MCPO's routes, including Route Segment MCPO MZK, reflect, in large part, the results of the ATXI public process. MCPO considered and used all 32 of the routing criteria identified by ATXI in the public process and identified in ATXI Exhibit 4.5. (Reinecke, MCPO Ex. 2.0 at 13:285-287; MCPO Exs. 2.3 and 2.4; Dauphinais, MCPO Ex. 1.0 at 43-44:956-971). Mr. Reinecke noted that in the first two phases of the public process, the public provided input on routing opportunities and sensitivities. (Reinecke, MCPO Ex. 2.0 at 4:69-73). He used the opportunities and sensitivities identified in this process. (Reinecke, MCPO Ex. 2.0 at 3:59-73). He reviewed ATXI's proposed routes to determine how ATXI had incorporated the public process in its route selection process. (Reinecke, MCPO Ex. 2.0 at 5:105-110). He used the information gathered in that analysis to help develop MCPO routes. (Reinecke, MCPO Ex. 2.0 at 6:125-134). Thus, MCPO's route selection process reflected the public inputs developed in ATXI's public process. That process involved the entire IRP and was conducted over the entire breadth of central Illinois.

Given the scope of that process, it is unlikely that additional public meetings would have produced substantially different results. (*See*, Reinecke, MCPO Ex. 2.0 at 8:159-168). In sum, the results of ATXI's public process were considered and used in the development of MCPO routes. Thus, MCPO routes reflect the public input from that process.

Fourth, while it was not necessary for MCPO to conduct public meetings in Piatt or Douglas Counties in any event, ATXI did. Phase I, Phase II and Phase III meetings were conducted in Piatt and Douglas Counties.<sup>7</sup> (Reinecke, MCPO Ex. 2.0 at 7:156-158 - Table; ATXI Ex. 4.6, Pt. 8; ATXI Ex. 4.1 at 1)).<sup>8</sup> A total of six meetings were held. (MCPO Ex. 2.0 at 7:156-158).

Fifth, contrary to PDMO's suggestion, the Commission need not disregard the public process to adopt Route Segment MCPO MZK as part of the Stipulated Route. As explained above, MCPO used the results of the public process to help identify its routes and, therefore, MCPO routes, including Route Segment MCPO MZK, reflect that process.

Nor must the Commission disregard all ATXI testimony, etc., as suggested by PDMO. (PDMO Br. at 16). The Commission need only weigh the evidence presented by all the parties, including MCPO, and adopt or approve Route Segment MCPO MZK on the grounds that it represents a better route than ATXI's Alternate Route segment from Mt. Zion to Kansas because it

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<sup>7</sup> This also suggests that the sensitivities identified in the public process reflect input from stakeholders and residents of those counties.

<sup>8</sup> The entire portion of MCPO Route Segment MCPO MZK that goes through Piatt County appears to be within the ATXI Project study area. In addition, a majority of that route segment appears to be within the Project study area in Douglas County as well. (Murphy, ATXI Ex. 13.7 at 1; ATXI Br. at 68).

impacts substantially fewer residences; substantially fewer other structures; substantially fewer acres of developed land; less prime farmland; and is less costly than the ATXI Alternate Route segment from Mt. Zion to Kansas, supported by PDMO.

Sixth, Commission credibility will not be adversely affected by such a decision. Indeed, it would serve the public interest to approve the route that has noticeably fewer impacts than the ATXI Alternate Route segment from Mt. Zion to Kansas. MCPO followed the instructions of the Administrative Law Judges in proposing alternative routes.<sup>9</sup> Those instructions were consistent with the Commission's past practice of having property owners identify their proposed alternative routes in the context of transmission siting cases. (*See, Illinois Power Company, d/b/a AmerenIP*, Dkt. 06-0179, Order, May 17, 2007 at 14-15; *see also*, for example, the ALJ Dec. 14, 2012 Order in this case). There is nothing unusual about the fact that MCPO identified alternative routes in accordance with the ALJs Order and the Commission's past practice. Nor is it unusual for property owners to propose routes that were not considered by the utility. If such routes could not be selected by the Commission there would be no need to propose them.

If the PDMO approach were adopted in this case, the Commission, and future property owners, would apparently be barred from making any routing proposals that were inconsistent with or different from, the routes considered by the utility in its routing selection process. Property owners should have the right to propose alternative routes different from those proposed by the

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<sup>9</sup> PDMO renews its April 19, 2013 Motion to Strike MCPO Routes as not timely filed and too ill-defined and incorporates that Motion by reference. MCPO incorporates by reference its April 29, 2013 Reply.



utility and should be entitled to have them fairly considered on their merits in the context of any litigated proceeding. To hold otherwise, as PDMO now seems to recommend, would be poor public policy and unfair to property owners affected by the utility proposals.

In essence, PDMO requests that the Commission reject Route Segment MCPO MZK (as a part of the Stipulated Route) simply because it is different from the routes initially recommended by the utility. The Commission should, instead, evaluate Route Segment MCPO MZK and the remainder of the ATXI-MCPO Stipulated Route as it would any other. If the Commission does this, MCPO believes that Route Segment MCPO MZK will be adopted (as part of the Stipulated Route) over the ATXI Alternate Route segment supported by PDMO because the facts and the evidence show that when the relevant routing factors are applied, it is the better of the routes.

**x. Visual Impact**

PDMO does not address this issue.

**xi. Presence of Existing Corridors**

In this section of its Brief, PDMO objects to Route Segment MCPO MZK because it purportedly ignores preferences that the line be routed along roads and follow property and section lines. Specifically, PDMO suggests that the route bisects farmland with no regard for section lines or property lines, etc. PDMO's argument is without merit. This is the same discussion of "potential for impact" as impacts to cultivated land in Section vi. above. The greater paralleling of roads and section lines by ATXI's Alternate Route from Mt. Zion to Kansas comes at the cost of having the transmission line in closer proximity to many more residences. (Dauphinais, MCPO Ex. 1.0 at 41:895-907).

In making this argument, PDMO overlooks or ignores the evidence of the ATXI witness it most relies on in this case. ATXI witness Murphy summarized the key routing considerations identified in the public process. She testified:

Throughout the process, two routing considerations were consistently raised for discussion by participants in the process: proximity to existing residences and the potential for impact to agricultural-related uses or activities.  
(Murphy, ATXI Ex. 4.0 at 10:214-216).

She goes on to indicate that ATXI's Proposed Routes were selected as the proposed routes "because they reduce the potential for impact to existing residences." (*Id.* at 10:217). She goes on to suggest that impacts on agricultural use and agricultural areas were addressed, in part, by installation of single shaft steel poles which reduced ground disturbance and other adverse affects to farmland. In addition, she does indicate that "to the extent practical", section lines, property lines and field lines were paralleled. (*Id.* at 10-11:218-224).

In this particular instance, the significantly reduced impact on residences and other structures associated with Route Segment MCPO MZK, is a good trade-off for a literal paralleling of section lines, etc.

In this section of its Brief, PDMO also suggests that because Route Segment MCPO MZK parallels existing transmission lines in the approach to the Kansas Substation, that route should be rejected. (PDMO Br. at 17-18). PDMO would have the Commission believe Mr. Dauphinais' testimony with regard to paralleling existing transmission lines is wildly inconsistent with that of ATXI witness Hackman. It is not. Mr. Dauphinais, in his direct testimony, testified with regard to

the benefits of paralleling existing transmission lines versus other less significant corridor paralleling opportunities. (Dauphinais, MCPO Ex. 1.0 at 19:401-410). However, in doing so he also indicated that this benefit assumes at least all else is equal and that the paralleling of existing transmission lines does not introduce a valid reliability problem. (*Id.*). As MCPO has discussed above in detail, all else is not equal. Route Segment MCPO MZK has substantially better routing factor performance than ATXI's Alternate Route segment from Mt. Zion to Kansas.

In addition, ATXI witness Hackman did not identify any reliability problems or any other kind of potential construction problem with Route Segment MCPO MZK. (Hackman, Tr. 1022 - Mr. Hackman did not mention the MCPO Mt. Zion to Kansas Route at all in his rebuttal testimony). Indeed, Mr. Hackman testified that the Route Segment MCPO MZK was constructable and that paralleling the existing transmission line was justified in this case because of the substantially reduced societal and environmental impacts associated with Route Segment MCPO MZK. (Hackman, Tr. 1021-1023). Thus, Route Segment MCPO MZK is better than equal and no valid reliability problem was identified.

Under the circumstances, MCPO's route design philosophy and MCPO's route are completely consistent with the views of Mr. Hackman, contrary to PDMO's suggestion otherwise.

### **CONCLUSION**

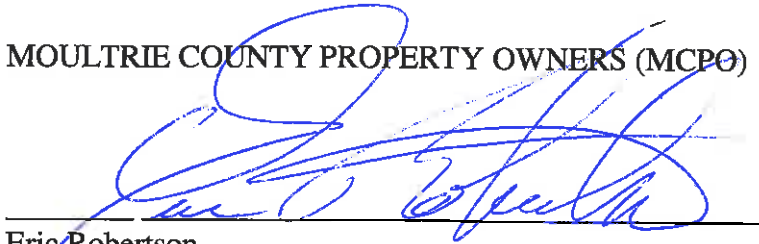
Contrary to PDMO's suggestion, the evidence in this case supports adoption of the ATXI-MCPO Stipulated Route, including Route Segment MCPO MZK. While MCPO's route from Mt. Zion to Kansas is slightly longer, it is less expensive, not more expensive, as argued by PDMO. It was developed using the public input obtained from the public process conducted by ATXI. It is

supported by numerous property owners in this proceeding, many of whom are outside Moultrie County. Adoption of the route on its merits is fully supported by substantial evidence in the record. It is not necessary that it be supported by all of the evidence in the record.

Under the circumstances, MCPO continues to support adoption of the ATXI-MCPO Stipulated Route in general, and the adoption of Route Segment MCPO MZK in particular.

Respectfully submitted,

MOULTRIE COUNTY PROPERTY OWNERS (MCPO)



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